

**Executive Summary – Enforcement Matter – Case No. 44652**  
**Angelina County Water Control and Improvement District No. 3**  
**RN102739422**  
**Docket No. 2012-1518-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Angelina County Water Control and Improvement District No. 3 Wastewater Treatment Facility, located 10,450 feet north of the intersection of U.S. Highway 59 And Farm-To-Market Road 2021 and 22,700 feet east of the intersection of U.S. Highway 59 And Farm-To-Market Road 2021, Lufkin, Angelina County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 6, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,840

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$15,840

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 44652  
Angelina County Water Control and Improvement District No. 3  
RN102739422  
Docket No. 2012-1518-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 24, 2012  
**Date(s) of NOE(s):** July 23, 2012

***Violation Information***

Failed to maintain authorization to discharge wastewater. Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014201001 expired on August 1, 2011, and the Respondent continued to operate without authorization until October 29, 2012 [TEX. WATER CODE §26.121(a)(1) and 30 TEX. ADMIN. CODE §§305.65 and 305.125(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By October 29, 2012, the Respondent obtained authorization to discharge effluent under TPDES Permit No. WQ0014352002.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** E.R. Brooks, President, Angelina County Water Control and Improvement District No. 3, P.O. Box 1864, Lufkin, Texas 75902  
**Respondent's Attorney:** Tim Karczewski, Attorney, Zelesky Law Firm, PLLC, P.O. Drawer 1728, Lufkin, Texas 75902-1728



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Jul-2012	<b>Screening</b>	31-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	24-Jun-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Angelina County Water Control and Improvement District No. 3		
<b>Reg. Ent. Ref. No.</b>	RN102739422		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44652	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1518-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jill Russell
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,000
---	-------------------	----------

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	32.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,840
---------------------------	-------------------	--------------------------------	---------

<b>Notes</b>	Enhancement for four months of self-reported effluent violations, two NOVs with dissimilar violations, and one order with denial of liability language.
--------------	---

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$623
Approx. Cost of Compliance	\$10,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$15,840
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
<b>Final Penalty Amount</b>	\$15,840

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$15,840
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$3,168
-----------------	-----------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
--------------	--

<b>PAYABLE PENALTY</b>	\$12,672
------------------------	----------

Screening Date 31-Jul-2012

Docket No. 2012-1518-MWD-E

PCW

Respondent Angelina County Water Control and Improvement District No. 3

Policy Revision 2 (September 2002)

Case ID No. 44652

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102739422

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for four months of self-reported effluent violations, two NOVs with dissimilar violations, and one order with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 32%

Screening Date 31-Jul-2012

Docket No. 2012-1518-MWD-E

PCW

Respondent Angelina County Water Control and Improvement District No. 3

Policy Revision 2 (September 2002)

Case ID No. 44652

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102739422

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)

## Violation Description

Failed to maintain authorization to discharge wastewater. Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014201001 expired on August 1, 2011, and the Respondent continued to operate without authorization until October 29, 2012.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 12

365 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,000

Twelve monthly events are recommended from the permit expiration date of August 1, 2011, to the July 31, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$12,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$623

Violation Final Penalty Total \$15,840

This violation Final Assessed Penalty (adjusted for limits) \$15,840

# Economic Benefit Worksheet

**Respondent** Angelina County Water Control and Improvement District No. 3  
**Case ID No.** 44652  
**Reg. Ent. Reference No.** RN102739422  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	1-Aug-2011	29-Oct-2012	1.25	\$623	n/a	\$623
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. Date required is the previous TPDES permit expiration date. Final date is the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$623

## Compliance History Report

Customer/Respondent/Owner-Operator: CN600629588 Angelina County WCID No. 3 Classification: AVERAGE Rating: 1.24

Regulated Entity: RN102739422 Angelina County WCID No. 3 Classification: AVERAGE Site Rating: 1.24

ID Number(s): WASTEWATER EPA ID TX0133329  
WASTEWATER PERMIT WQ0015021001

Location: 10,450 FEET NORTH OF THE INTERSECTION OF UNITED STATES HIGHWAY 59 AND FARM-TO-MARKET ROAD 2021 AND 22,700 FEET EAST OF THE INTERSECTION OF UNITED STATES HIGHWAY 59 AND FARM-TO-MARKET ROAD 2021 IN ANGELINA COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 25, 2007 to July 25, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jill Russell Phone: 512-239 - 4564

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 05/18/2009

ADMINORDER 2006-2239-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- B. Any criminal convictions of the state of Texas and the federal government.  
N/A

- C. Chronic excessive emissions events.  
N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/20/2012 (1015626)

2 02/05/2008 (611728)

3 09/05/2007 (632556)

4 09/24/2007 (632557)

5 10/22/2007 (632559)

6	11/27/2007	(632561)	31	09/11/2009	(820339)
7	12/27/2007	(632563)	32	10/16/2009	(820340)
8	02/22/2008	(677557)	33	11/09/2009	(820341)
9	01/21/2008	(677558)	34	12/11/2009	(820342)
10	03/24/2008	(696331)	35	01/07/2010	(820343)
11	04/21/2008	(696332)	36	03/05/2010	(836388)
12	05/19/2008	(696333)	37	04/09/2010	(836389)
13	06/20/2008	(696334)	38	05/18/2010	(836390)
14	07/18/2008	(696335)	39	06/17/2010	(847957)
15	09/09/2008	(717981)	40	07/16/2010	(862382)
16	09/19/2008	(717982)	41	08/09/2010	(869007)
17	10/20/2008	(717983)	42	09/15/2010	(875853)
18	11/19/2008	(733289)	43	10/12/2010	(883436)
19	12/19/2008	(733290)	44	11/16/2010	(889828)
20	01/20/2009	(733291)	45	12/13/2010	(898226)
21	02/20/2009	(756426)	46	01/07/2011	(904090)
22	03/19/2009	(756427)	47	04/28/2011	(905371)
23	04/20/2009	(756428)	48	02/10/2011	(910966)
24	05/14/2009	(773377)	49	03/14/2011	(918247)
25	10/22/2009	(777185)	50	04/14/2011	(930840)
26	02/18/2010	(790199)	51	06/17/2011	(933455)
27	02/08/2010	(820335)	52	05/09/2011	(939952)
28	07/16/2009	(820336)	53	06/08/2011	(947363)
29	07/16/2009	(820337)	54	07/08/2011	(954621)
30	08/13/2009	(820338)	55	09/14/2011	(961202)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/31/2008 (696332)

CN600629588

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter



Date: 11/30/2008 (733290) CN600629588  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2008 (733291) CN600629588  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 (820336) CN600629588  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/01/2009 (746273) CN600629588  
 Self Report? NO Classification: Moderate  
 Citation: 14201-001 OpR, No 1, pg 9 PERMIT  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Description: Failure by Angelina County WCID #3 to properly operate and maintain all systems  
 of collection, treatment, and disposal.

Self Report? NO Classification: Minor  
 Citation: M&RR 2 PERMIT  
 Description: Failure by ACWCID3 to comply with test procedures specified in 30 TAC  
 319.11-319-12.

Self Report? NO Classification: Minor  
 Citation: OpR 1 PERMIT  
 Description: Failure by ACWCID3 to ensure that all systems of collection, treatment and  
 disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
 Citation: OR 6 PERMIT  
 Description: Failure by ACWCID 3 to submit to the Beaumont Region 10 office, the 2008 annual  
 sludge report.

Self Report? NO Classification: Moderate  
 Citation: EL&MR 1 PERMIT  
 Description: Failure by ACWCID3 to comply with self-monitored effluent limitations.

Self Report? NO Classification: Minor  
 Citation: M&RR 3b PERMIT  
 Description: Failure by ACWCID3 to maintain on site and for at least 5 years, make readily  
 available for review, records of monitoring information related to permitted sludge  
 use and disposal activities.

Self Report? NO Classification: Minor  
 Citation: EL&MR 2 PERMIT  
 Description: Failure to comply with the effluent permit limitation on maximum chlorine residual  
 of less than or equal to 4 mg/l.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
 Description: Failure by ACWCID3 to prevent the disposal of municipal solid waste (MSW) in  
 such a manner that causes the discharge or imminent threat of discharge of  
 MSW into or adjacent to waters of the state.

Self Report? NO Classification: Moderate  
 Citation: OpR 4 PERMIT  
 PC 2g, Pg. 7 PERMIT  
 Description: Failure by ACWCID3 to install prior to plant startup, adequate safeguards to  
 prevent the discharge of untreated or inadequately treated wastewater during  
 electrical power failures.

Date: 05/02/2011 (914225)

CN600629588

Self Report? NO

Classification: Moderate

Citation: PC PERMIT

Description: Failure by the Angelina County Water Control and Improvement District No. 3 to

prevent the discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall.

Self Report? NO

Classification: Moderate

Citation: MRR PERMIT

Description: Failure by the Angelina County Water Control and Improvement District No. 3 to report orally or by fax to the Regional Office within 24 hours of becoming aware of the noncompliance and to submit a written submission of such information to the Regional Office and Enforcement Division (MC 224) within 5 working days of becoming of the noncompliance.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ANGELINA COUNTY WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 3  
RN102739422**

**§        BEFORE THE  
§  
§  
§        TEXAS COMMISSION ON  
§  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1518-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Angelina County Water Control and Improvement District No. 3 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Tim Karczewski of the Zelesky Law Firm, PLLC, together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located 10,450 feet north of the intersection of United States Highway 59 and Farm-To-Market Road 2021 and 22,700 feet east of the intersection of United States Highway 59 and Farm-To-Market Road 2021 in Angelina County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 24, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Eight Hundred Forty Dollars (\$15,840) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty. Therefore, Fifteen Thousand Eight Hundred Forty Dollars (\$15,840) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by October 29, 2012, the Respondent obtained authorization to discharge effluent under Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014352002.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to maintain authorization to discharge wastewater, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), as documented during an investigation conducted on May 24, 2012. Specifically, TPDES Permit No. WQ0014201001 expired on August 1, 2011, and the Respondent continued to operate without authorization until October 29, 2012.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. The Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here.
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

Tracy Miller  
For the Executive Director

10.4.13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

ER Brook  
Signature

7/18/13  
Date

ER BROOKS  
Name (Printed or typed)

President  
Title

Authorized Representative of

Angelina County Water Control and Improvement District No. 3

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.